

September 13, 2010

Ms. Marlene H. Dortch
Federal Communications Commission
The Portals, TW-A325
445 12th Street SW
Washington, DC 20554

**Re: Notice of Ex Parte Presentation
Schools and Libraries Universal Support Mechanism - CC Docket No. 02-6;
A National Broadband Plan for Our Future - GN Docket No. 09-51.**

Dear Ms. Dortch:

On Monday, September 13, 2010, Merit held a telephone conversation with Gina Spade and Regina Brown of the FCC's Wireline Competition Bureau concerning the E-rate reform order in the above captioned proceedings. Participating in the meeting were Elwood Downing and Greg Monroe of Merit, Mark Johnson of MCNC, and John Windhausen of Telepoly Consulting. We discussed the following two issues:

1. The standard way that state research and education (R&E) networks provide dark fiber service to schools, libraries and other anchor institutions is through a long-term indefeasible right to use, also known as an IRU. An IRU is sometimes treated as a lease and sometimes treated as equivalent to ownership (since the lease often is as long as the useful life of the fiber). We respectfully ask the FCC to clarify that the costs of IRU's for dark fiber are supported by the E-rate program. If this clarification is not made, many schools and libraries will be uncertain whether the program applies to IRU's for dark fiber, and this uncertainty may discourage them from using dark fiber even when dark fiber provides a more affordable alternative than other services.

2. We respectfully suggest that the E-rate program should support the costs of constructing a dark fiber network to schools and libraries in addition to the monthly operating costs. E-rate support should not be limited to the monthly operating costs on already-built (spare) fiber. Our understanding is that the deployment of costs of building "lit" fiber networks can be supported through the E-rate program today (under the Tennessee and Brooklyn Orders, for instance). There is no evidence that allowing these construction costs have been on a drain on the E-rate fund. Allowing the costs of deploying dark fiber (amortized over an appropriate number of years) would put dark fiber on the same path as "lit" fiber and would allow schools and

libraries more easily to obtain high-capacity "future-proof" broadband connections.

We appreciate the opportunity to submit these comments for the record.

Sincerely,

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cc: Gina Spade
Regina Brown